

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE APRIL 7, 2011

SENATE BILL

No. 927

Introduced by Senator Runner

February 18, 2011

An act to amend Section 827 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 927, as amended, Runner. Juvenile case files.

Existing law requires the case file of a dependent child or ward of the juvenile court to be kept confidential, except as specified. Existing law authorizes only certain persons to inspect the case file, including, among others, the attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers, who are participating in proceedings involving the minor.

This bill also would authorize an attorney for a party in a juvenile dependency proceeding involving a sibling of the minor to inspect the *dependency* case file under certain circumstances. The bill would, however, exclude mental health records, counseling reports, and mental health evaluations from being accessed under those provisions.

The bill would make other technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 827 of the Welfare and Institutions Code
- 2 is amended to read:

1 827. (a) (1) Except as provided in Section 828, a case file
2 may be inspected only by the following:

3 (A) Court personnel.

4 (B) The district attorney, a city attorney, or city prosecutor
5 authorized to prosecute criminal or juvenile cases under state law.

6 (C) The minor who is the subject of the proceeding.

7 (D) The minor's parents or guardian.

8 (E) The attorneys for the parties, judges, referees, other hearing
9 officers, probation officers, and law enforcement officers who are
10 actively participating in criminal or juvenile proceedings involving
11 the minor.

12 (F) (i) Upon declaration showing good cause that it is necessary
13 to the ongoing representation of a client, an attorney for a party in
14 a juvenile dependency proceeding involving a sibling of the minor.
15 If the attorney for a party in the sibling's dependency action seeks
16 to introduce any document from the minor's juvenile court
17 *dependency case* file, prior to introducing the document, the name
18 and identifying information of any nonrelated parent or child shall
19 be redacted. If the minor whose records are sought is a dependent
20 child of the court, notice that the minor's records are being accessed
21 shall be provided to each party at the party's last known address
22 or, if the party is represented by counsel, to his or her counsel.

23 (ii) Mental health records, counseling reports, and mental health
24 evaluations shall be excluded and may not be accessed under this
25 subparagraph.

26 (iii) *This subparagraph shall authorize an attorney for a party*
27 *in a juvenile dependency proceeding involving a sibling of the*
28 *minor to only inspect or access a dependency case file.*

29 (G) The county counsel, city attorney, or any other attorney
30 representing the petitioning agency in a dependency action.

31 (H) The superintendent or designee of the school district where
32 the minor is enrolled or attending school.

33 (I) Members of the child protective agencies as defined in
34 Section 11165.9 of the Penal Code.

35 (J) The State Department of Social Services, to carry out its
36 duties pursuant to Division 9 (commencing with Section 10000),
37 and Part 5 (commencing with Section 7900) of Division 12, of the
38 Family Code to oversee and monitor county child welfare agencies,
39 children in foster care or receiving foster care assistance, and
40 out-of-state placements, Section 10850.4, and paragraph (2).

(K) Authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services may not contain the name of the minor.

(L) Members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

(M) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of

1 the Family Code, and counsel appointed for the minor in the family
2 law case pursuant to Section 3150 of the Family Code. Prior to
3 allowing counsel appointed for the minor in the family law case
4 to inspect the file, the court clerk may require counsel to provide
5 a certified copy of the court order appointing him or her as the
6 minor's counsel.

7 (N) A court-appointed investigator who is actively participating
8 in a guardianship case involving a minor pursuant to Part 2
9 (commencing with Section 1500) of Division 4 of the Probate
10 Code and acting within the scope of his or her duties in that case.

11 (O) A local child support agency for the purpose of establishing
12 paternity and establishing and enforcing child support orders.

13 (P) Juvenile justice commissions as established under Section
14 225. The confidentiality provisions of Section 10850 shall apply
15 to a juvenile justice commission and its members.

16 (Q) Any other person who may be designated by court order of
17 the judge of the juvenile court upon filing a petition.

18 (2) (A) Notwithstanding any other law and subject to
19 subparagraph (A) of paragraph (3), juvenile case files, except those
20 relating to matters within the jurisdiction of the court pursuant to
21 Section 601 or 602, that pertain to a deceased child who was within
22 the jurisdiction of the juvenile court pursuant to Section 300, shall
23 be released to the public pursuant to an order by the juvenile court
24 after a petition has been filed and interested parties have been
25 afforded an opportunity to file an objection. Any information
26 relating to another child or which could identify another child,
27 except for information about the deceased, shall be redacted from
28 the juvenile case file prior to release, unless a specific order is
29 made by the juvenile court to the contrary. Except as provided in
30 this paragraph, the presiding judge of the juvenile court may issue
31 an order prohibiting or limiting access to the juvenile case file, or
32 any portion thereof, of a deceased child only upon a showing by
33 a preponderance of evidence that release of the juvenile case file
34 or any portion thereof is detrimental to the safety, protection, or
35 physical or emotional well-being of another child who is directly
36 or indirectly connected to the juvenile case that is the subject of
37 the petition.

38 (B) This paragraph represents a presumption in favor of the
39 release of documents when a child is deceased unless the statutory
40 reasons for confidentiality are shown to exist.

1 (C) If a child whose records are sought has died, and documents
2 are sought pursuant to this paragraph, no weighing or balancing
3 of the interests of those other than a child is permitted.

4 (D) A petition filed under this paragraph shall be served on
5 interested parties by the petitioner, if the petitioner is in possession
6 of their identity and address, and on the custodian of records. Upon
7 receiving a petition, the custodian of records shall serve a copy of
8 the request upon all interested parties that have not been served
9 by the petitioner or on the interested parties served by the petitioner
10 if the custodian of records possesses information, such as a more
11 recent address, indicating that the service by the petitioner may
12 have been ineffective.

13 (E) The custodian of records shall serve the petition within 10
14 calendar days of receipt. If any interested party, including the
15 custodian of records, objects to the petition, the party shall file and
16 serve the objection on the petitioning party no later than 15
17 calendar days of service of the petition.

18 (F) The petitioning party shall have 10 calendar days to file a
19 reply. The juvenile court shall set the matter for hearing no more
20 than 60 calendar days from the date the petition is served on the
21 custodian of records. The court shall render its decision within 30
22 days of the hearing. The matter shall be decided solely upon the
23 basis of the petition and supporting exhibits and declarations, if
24 any, the objection and any supporting exhibits or declarations, if
25 any, and the reply and any supporting declarations or exhibits
26 thereto, and argument at hearing. The court may solely upon its
27 own motion order the appearance of witnesses. If no objection to
28 the petition is filed, the court shall review the petition and issue
29 its decision within 10 calendar days of the final day for filing the
30 objection. An order of the court shall be immediately reviewable
31 by petition to the appellate court for the issuance of an
32 extraordinary writ.

33 (3) Access to juvenile case files pertaining to matters within the
34 jurisdiction of the juvenile court pursuant to Section 300 shall be
35 limited as follows:

36 (A) If a juvenile case file, or any portion thereof, is privileged
37 or confidential pursuant to any other state law or federal law or
38 regulation, the requirements of that state law or federal law or
39 regulation prohibiting or limiting release of the juvenile case file
40 or any portions thereof shall prevail. Unless a person is listed in

1 subparagraphs (A) to (P), inclusive, of paragraph (1) and is entitled
2 to access under the other state law or federal law or regulation
3 without a court order, all those seeking access, pursuant to other
4 authorization, to portions of, or information relating to the contents
5 of, juvenile case files protected under another state law or federal
6 law or regulation, shall petition the juvenile court. The juvenile
7 court may only release the portion of, or information relating to
8 the contents of, juvenile case files protected by another state law
9 or federal law or regulation if disclosure is not detrimental to the
10 safety, protection, or physical or emotional well-being of a child
11 who is directly or indirectly connected to the juvenile case that is
12 the subject of the petition. This paragraph shall not be construed
13 to limit the ability of the juvenile court to carry out its duties in
14 conducting juvenile court proceedings.

15 (B) Prior to the release of the juvenile case file or any portion
16 thereof, the court shall afford due process, including a notice of
17 and an opportunity to file an objection to the release of the record
18 or report to all interested parties.

19 (4) A juvenile case file, any portion thereof, and information
20 relating to the content of the juvenile case file, may not be
21 disseminated by the receiving agencies to any persons or agencies,
22 other than those persons or agencies authorized to receive
23 documents pursuant to this section. Further, a juvenile case file,
24 any portion thereof, and information relating to the content of the
25 juvenile case file, may not be made as an attachment to any other
26 documents without the prior approval of the presiding judge of the
27 juvenile court, unless it is used in connection with and in the course
28 of a criminal investigation or a proceeding brought to declare a
29 person a dependent child or ward of the juvenile court.

30 (5) Individuals listed in subparagraphs (A), (B), (C), (D), (E),
31 (F), (G), (I), and (J) of paragraph (1) may also receive copies of
32 the case file. In these circumstances, the requirements of paragraph
33 (4) shall continue to apply to the information received.

34 (b) (1) While the Legislature reaffirms its belief that juvenile
35 court records, in general, should be confidential, it is the intent of
36 the Legislature in enacting this subdivision to provide for a limited
37 exception to juvenile court record confidentiality to promote more
38 effective communication among juvenile courts, family courts,
39 law enforcement agencies, and schools to ensure the rehabilitation

1 of juvenile criminal offenders as well as to lessen the potential for
2 drug use, violence, other forms of delinquency, and child abuse.

3 (2) (A) Notwithstanding subdivision (a), written notice that a
4 minor enrolled in a public school, kindergarten to grade 12,
5 inclusive, has been found by a court of competent jurisdiction to
6 have committed any felony or any misdemeanor involving curfew,
7 gambling, alcohol, drugs, tobacco products, carrying of weapons,
8 a sex offense listed in Section 290 of the Penal Code, assault or
9 battery, larceny, vandalism, or graffiti shall be provided by the
10 court, within seven days, to the superintendent of the school district
11 of attendance. Written notice shall include only the offense found
12 to have been committed by the minor and the disposition of the
13 minor's case. This notice shall be expeditiously transmitted by the
14 district superintendent to the principal at the school of attendance.
15 The principal shall expeditiously disseminate the information to
16 those counselors directly supervising or reporting on the behavior
17 or progress of the minor. In addition, the principal shall disseminate
18 the information to any teacher or administrator directly supervising
19 or reporting on the behavior or progress of the minor whom the
20 principal believes needs the information to work with the pupil in
21 an appropriate fashion, to avoid being needlessly vulnerable or to
22 protect other persons from needless vulnerability.

23 (B) Any information received by a teacher, counselor, or
24 administrator under this subdivision shall be received in confidence
25 for the limited purpose of rehabilitating the minor and protecting
26 students and staff, and shall not be further disseminated by the
27 teacher, counselor, or administrator, except insofar as
28 communication with the juvenile, his or her parents or guardians,
29 law enforcement personnel, and the juvenile's probation officer
30 is necessary to effectuate the juvenile's rehabilitation or to protect
31 students and staff.

32 (C) An intentional violation of the confidentiality provisions of
33 this paragraph is a misdemeanor punishable by a fine not to exceed
34 five hundred dollars (\$500).

35 (3) If a minor is removed from public school as a result of the
36 court's finding described in subdivision (b), the superintendent
37 shall maintain the information in a confidential file and shall defer
38 transmittal of the information received from the court until the
39 minor is returned to public school. If the minor is returned to a
40 school district other than the one from which the minor came, the

1 parole or probation officer having jurisdiction over the minor shall
2 so notify the superintendent of the last district of attendance, who
3 shall transmit the notice received from the court to the
4 superintendent of the new district of attendance.

5 (c) Each probation report filed with the court concerning a minor
6 whose record is subject to dissemination pursuant to subdivision
7 (b) shall include on the face sheet the school at which the minor
8 is currently enrolled. The county superintendent shall provide the
9 court with a listing of all of the schools within each school district
10 in the county, along with the name and mailing address of each
11 district superintendent.

12 (d) (1) Each notice sent by the court pursuant to subdivision
13 (b) shall be stamped with the instruction: "Unlawful Dissemination
14 Of This Information Is A Misdemeanor." Any information received
15 from the court shall be kept in a separate confidential file at the
16 school of attendance and shall be transferred to the minor's
17 subsequent schools of attendance and maintained until the minor
18 graduates from high school, is released from juvenile court
19 jurisdiction, or reaches the age of 18 years, whichever occurs first.
20 After that time the confidential record shall be destroyed. At any
21 time after the date by which a record required to be destroyed by
22 this section should have been destroyed, the minor or his or her
23 parent or guardian shall have the right to make a written request
24 to the principal of the school that the minor's school records be
25 reviewed to ensure that the record has been destroyed. Upon
26 completion of any requested review and no later than 30 days after
27 the request for the review was received, the principal or his or her
28 designee shall respond in writing to the written request and either
29 shall confirm that the record has been destroyed or, if the record
30 has not been destroyed, shall explain why destruction has not yet
31 occurred.

32 (2) Except as provided in paragraph (2) of subdivision (b), no
33 liability shall attach to any person who transmits or fails to transmit
34 any notice or information required under subdivision (b).

35 (e) For purposes of this section, a "juvenile case file" means a
36 petition filed in any juvenile court proceeding, reports of the
37 probation officer, and all other documents filed in that case or
38 made available to the probation officer in making his or her report,
39 or to the judge, referee, or other hearing officer, and thereafter

1 retained by the probation officer, judge, referee, or other hearing
2 officer.

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